

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
(Attorney Docket № 14973US02)**

In the Application of:

Marcus Kellerman, et al.

Serial № 10/674,672

Filed: September 30, 2003

For: SUPPORTING MULTIPLE USERS
FROM A SINGLE LOCATION
SHARING A MEDIA PROCESSING
SYSTEM VIA A PERSONAL MEDIA
GUIDE

Examiner: John R. Schnurr

Group Art Unit: 2421

Confirmation № 5006

Electronically filed on 06-SEP-2011

REPLY BRIEF

MS: APPEAL BRIEF-PATENTS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR 41.41, the Appellant submits this Reply Brief in response to the Examiner's Answer ("Answer") mailed on July 6, 2011, with a reply period through September 6, 2011. Claims 1-29 are pending in the present Application. The Appellant has responded to the Examiner in the Examiner's Answer, as found in the following Argument section.

As may be verified in the final Office Action dated December 20, 2010 ("Final Office Action"), claims 1-29 stand rejected under 35 U.S.C. § 103(a). See Final Office Action at page 3. To aid the Board in identifying corresponding arguments, the Appellant has used the same headings in the Argument section of this Reply Brief as the headings found in the Appellant's corresponding Brief on Appeal. The Brief on Appeal has a date of deposit of March 21, 2011.

STATUS OF THE CLAIMS

Claims 1-29 were finally rejected. Pending claims 1-29 are the subject of this appeal.

ARGUMENT

I. The Proposed Combination of Novak and Ellis Does Not Render Claims 1-29 Unpatentable

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner is using the following argument stated on page 9 of the Answer:

In response to appellant's argument that the combination of Novak and Ellis does not disclose that a "software platform is operable to push the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device," the examiner respectfully disagrees.

Novak teaches a system where a user may share user created media content with other users by transmitting the user content in a user defined layout through a network to a second user. Upload source 122 of figure 1 creates personalized media content and transfers the content to set top box 152 through a network ([0039], [0042]). Ellis teaches that media content can be shared among user devices by pushing the media content directly from the contributing equipment to the viewer equipment through a network. Figure 7 shows an example network architecture where a video may be sent from user equipment 102 to user equipment 104 via network 106. The content is distributed according to a schedule established by the contributor (col. 7 lines 44-48) and sent directly from the contributor to the viewer (col. 14 lines 15-18). Therefore, the contributor must "push" the content through the network to the viewer so that it may be displayed at the scheduled time. The combination of the scheduled directly distributed media content of Ellis with the personalized media system of Novak results in the website or other network storage and transmission system being eliminated in favor of the simpler content push from one user to another at the scheduled moment as taught by Ellis.

The Appellant disagrees. The Examiner equates Novak's upload source (122) (such as a PC or a set-top box STB) to Appellant's "first communication device ... at a first geographical location", and Novak's internet (302) (or cable net (134)) to

Appellant's "communication network". The Examiner also equates Novak's media content stored in the STB and Novak's user STB (152) to Appellant's "personal media" and "second communication device at a second geographical location".

Novak, however, is deficient since it discloses that the media content (the alleged "personal media") is uploaded into one or more other locations (such as a website (124), a local studio (106) or a network service provider (108)) and stored, prior to being transferred to (but only upon request) and viewed on a STB/TV (153/154) at the end user location (the alleged "second communication device associated with a second user at a second geographical location"). (See Novak's ¶[0080]). In other words, **Novak does not push the media content directly via the communication network from a first device at a first location to at least a second communication device associated with a second user at a second geographic location**, as claimed.

Ellis does not overcome the above deficiencies of Novak. Even though a video may be sent from user equipment 102 to user equipment 104, Ellis discloses that the video created (the alleged "media content") by the Contributor User Equipment (102) (the alleged "first communication device at the first geographical location") is first transmitted to a server (110) located at the ISP (108), necessarily stored at the ISP (108), and only then redistributed (upon demand or in accordance with a schedule) to the Viewer equipment (104) (the alleged "second communication device at a second geographical location"). (See Ellis at Fig. 1 and col. 7, ll. 27-47).

In this regard, similarly to Novak, Ellis also does not disclose "the software platform is operable to push the media content ... directly via the communication

network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location," as recited in Appellant's claim 1.

The Appellant respectfully submits that claims 1-29 are allowable.

CONCLUSION

The Appellant submits that the pending claims are allowable in all respects. Reversal of the Examiner's rejections for all the pending claims and issuance of a patent on the Application are therefore requested from the Board.

The Commissioner is hereby authorized to charge additional fee(s) or credit overpayment(s) to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 06-SEP-2011

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